

**ENTERED**

June 03, 2020

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION

UNITED STATES OF AMERICA,	§	
	§	
Plaintiff,	§	
VS.	§	CIVIL ACTION NO. 7:20-cv-00077
	§	
0.227 ACRES OF LAND, MORE OR	§	
LESS, SITUATE IN STARR COUNTY,	§	
TEXAS; and JORGE MONTALVO et al.,	§	
	§	
Defendants.	§	

**ORDER**

The Court now considers the “United States of America’s Unopposed Motion to Dismiss the Unknown Heirs of Fidel Garcia as Unnecessarily or Improperly Joined Party Defendants.”<sup>1</sup> Plaintiff United States under Federal Rule of Civil Procedure 71.1(i)(2) to dismiss Defendants Unknown Heirs of Fidel Garcia “as unnecessarily or improperly joined party defendants.”<sup>2</sup>

This land condemnation case concerns 0.227 acres of land wholly within a 42.039 acre parcel of land that the United States asserts is wholly owned by Jorge Montalvo and Elsa Montalvo.<sup>3</sup> In its motion, the United States recounts a confusing history of conveyances of the property parcel at issue in this case.<sup>4</sup> According to the United States’ telling, certain individuals (heirs and descendants of Fidel Garcia) with only a 2/5ths interest in the parcel conveyed “all of an undivided four-fifths” interest to other individuals by warranty deed.<sup>5</sup> According to the “Warranty Deed” attached to the United States’ motion, which the United States cites to

---

<sup>1</sup> Dkt. No. 13.

<sup>2</sup> *Id.* at 1.

<sup>3</sup> Dkt. No. 1-1 at 9–11.

<sup>4</sup> Dkt. No. 13 at 1–3, ¶¶ 2–8.

<sup>5</sup> *Id.* at 3, ¶¶ 6–7.

establish that certain individuals conveyed a four-fifths interest<sup>6</sup>: Tomasita Garcia with a 2/5ths interest, Alfredo Garcia with a 2/5ths interest, and the children of Zulema Garcia with a collective 2/5ths interest, somehow conveyed a 4/5ths interest to Jorge Montalvo and Elsa Montalvo, the Defendants in this case.<sup>7</sup> Jorge Montalvo and Elsa Montalvo acquired the remainder 1/5th interest in a separate conveyance.<sup>8</sup>

In the United States' Amended Schedule G, which purportedly sets forth all people and entities with any interest in the subject property of this case or with interest in the just compensation to be paid for taking of the subject property, the United States lists only Jorge Montalvo and Elsa Montalvo and "Unknown Heirs of Fidel Garcia."<sup>9</sup> As grounds for dismissal, the United States states that "[t]he UNKNOWN HEIRS OF FIDEL GARCIA have no interest in just compensation for the United States' acquisition of Tract RGV-RGC-R1107E because all heirs of FIDEL GARCIA are now known, and their respective interest in the Subject Property was conveyed to Defendants, Jorge Montalvo and Elsa Montalvo prior to the commencement of this action."<sup>10</sup>

However, the Court is unpersuaded that all the heirs of Fidel Garcia have conveyed or disclaimed any interest in the subject property of this case. As set forth in the Government Exhibit 7, a "Warranty Deed," conveyance of a 4/5ths interest to Jorge Montalvo and Elsa Montalvo was accomplished by grantors with a collective 6/5ths interest.<sup>11</sup> The Court is uncertain what to make of the interests of Tomasita Garcia, Alfredo Garcia, Leandro David Castaneda, Irma C. Enriquez, or Gloria E. Koepke.<sup>12</sup> Therefore, the Court **DENIES** the United

---

<sup>6</sup> *Id.* at 3, ¶ 7 n.15.

<sup>7</sup> Dkt. No. 13-7 at 1.

<sup>8</sup> *See* Dkt. No. 13-10.

<sup>9</sup> Dkt. No. 10-1.

<sup>10</sup> Dkt. No. 13 at 4, ¶ 10.

<sup>11</sup> *See* Dkt. No. 13-7 at 1.

<sup>12</sup> *See id.*

States' motion to dismiss<sup>13</sup> until the United States satisfies the Court that all of the heirs of Fidel Garcia have disclaimed or conveyed away all of their interest in the subject property or otherwise establishes that the "Unknown Heirs of Fidel Garcia" were "unnecessarily or improperly joined."<sup>14</sup>

IT IS SO ORDERED.

DONE at McAllen, Texas, this 3rd day of June 2020.

A handwritten signature in black ink, appearing to read "M. Alvarez", is written over a horizontal line.

Micaela Alvarez  
United States District Judge

---

<sup>13</sup> Dkt. No. 13.

<sup>14</sup> FED. R. CIV. P. 71.1(i)(2).